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OFFICE OF PETITIONS

In re Application of :
Hundhausen et al. : DECISION ON PETITION
Application No. 10/063,317 : AND DECISION
Filed: 10 April, 2002 : UNDER 37 CFR 1.28(c)
Attorney Docket No. roswell :

This is a decision on the renewed petition under 37 CFR 1.137(b),¹ filed on 14 December, 2004. This is also a communication in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 14 December, 2004.

The petition is granted.

This application became abandoned on 23 June, 2002, for failure to timely submit an oath or declaration, a surcharge for its late filing, and substitute drawings in compliance with 37 CFR 1.84, as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 22 April, 2002, which set a two (2) month

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

shortened period for reply. Notice of Abandonment was mailed on 4 December, 2003. The petition filed on 16 August, 2004, was dismissed on 13 October, 2004, because substitute drawings had not been filed.

On 14 December, 2004, the present renewed petition was filed, accompanied by a one (1) month extension of time and five (5) sheets of substitute drawings.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Small entity status will no longer apply.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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